ARC 7015B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services proposes to amend Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

The proposed amendments:

• Add new language regarding the recovery of HAWK-I overpayments and rescind two subrules to give the Department a better legal basis for recovery when eligibility was incorrectly provided due to client error.

• Clarify the length of the enrollment period for a child added to a family's existing enrollment. The child is enrolled for the term of the family's existing enrollment.

• Establish the first month for which a premium will be due as the third month following the month of the initial eligibility decision.

• Add language to allow electronic signatures to be accepted when the Department has the necessary technology.

Currently, families who are newly approved for HAWK-I owe a premium beginning with the month immediately following the month in which the eligibility decision was made. When that decision is made late in a month, not only does the family owe a premium for the next month but also for the second month following the eligibility decision.

For example, if an application is approved on June 27, the first month for which a premium is due is July. The July premium is due July 14, or ten working days following the date of the eligibility decision. Also, the family's ongoing premiums are due by the tenth day of the month before the month of coverage; so the family's August premium is due July 10. Not only is it confusing to families to have the premium for August due before the premium for July, many families miss the fact that two premiums are due and only send in one. This confusion often results in denial of the application for failure to pay premiums. The proposed amendment will establish a more reasonable schedule of premium due dates for initial applications.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before August 20, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 514I.

The following amendments are proposed.

ITEM 1. Amend paragraphs **86.3(4)"a"**and **"b"** as follows:

a. Medicaid applications referred to the HAWK-I program. When the family has applied for Medicaid first and the department ~~local office~~ makes a referral to the third-party administrator, the date the Medicaid application was originally filed with the department shall be the filing date.

b. Electronic applications. When an application is submitted electronically to the third-party administrator, the application is considered filed on the date the third-party administrator receives Form 470-4016, HAWK-I Electronic Application Summary and Signature, containing a legible signature.

When the department has the technology to allow electronic signatures, the electronic signature shall be accepted without the need for an additional signature on a printed document.

ITEM 2. Rescind and reserve subrule **86.3(11)**.

ITEM 3. Adopt the following **new** paragraph **86.6(2)"c"**:

c. The child is added to an existing enrollment. When a family requests to add an eligible child, the child shall be enrolled for the months remaining in the current enrollment period.

ITEM 4. Rescind subrule 86.8(3) and adopt the following **new** subrule in lieu thereof:

86.8(3) *Due date.*

a. Payment upon initial application. "Initial application" means the first program application or a subsequent application that is not a renewal. Upon approval of an initial application, the first month for which a premium is due is the third month following the month of decision. The due date of the first premium shall be the tenth day of the second month following the month of decision.

b. Payment upon renewal. "Renewal" means any application used to establish ongoing eligibility, without a break in coverage, for any enrollment period subsequent to an enrollment period established by an initial application.

(1) Upon approval of a renewal, the first month for which a premium is due is the first month of the enrollment period. The premium for the first month of the enrollment period shall be due by the tenth day of the month before the month of coverage or the tenth business day following the date of decision, whichever is later.

(2) All premiums due must be paid before the child will be enrolled for coverage. When the premium is received, the third-party administrator shall notify the plan of the enrollment.

c. Subsequent payments. All subsequent premiums are due by the tenth day of each month for the next month's coverage and must be postmarked no later than the last day of the month before the month of coverage. Failure to pay the premium by the last day of the month before the month of coverage shall result in disenrollment from the plan. Premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

ITEM 5. Amend subrule 86.8(4) as follows:

86.8(4) *Reinstatement.* A child may be reinstated once per enrollment period when the family fails to pay the premium by the last day of the month ~~before~~ for the ~~month of~~ next month's coverage. ~~However,~~ If the premium ~~must be paid or~~ is subsequently received, coverage will be reinstated if the premium was postmarked ~~within~~ or otherwise paid in the calendar month immediately following ~~the month of nonpayment and the premium must be paid in full in order for reinstatement to occur~~ disenrollment.

ITEM 6. Rescind and reserve subrule **86.10(7)**.

ITEM 7. Adopt the following **new** rule 441—86.19(514I):

441—86.19(514I) Recovery.

86.19(1) *Definitions.*

"Administrative error" means an action attributed to the department or to the HAWK-I third-party administrator that results in incorrect payment of benefits, including premiums paid to a health plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the HAWK-I third-party administrator.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.

9. Failure of the department to provide correct information to the HAWK-I third-party administrator regarding a child's Medicaid eligibility.

"Client error" means an action attributed to the enrollee that results in incorrect payment of benefits, including premiums paid to a health plan, because the enrollee or the enrollee's representative:

1. Failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or

2. Failed to timely report a change as defined in rule 441—86.10(514I).

86.19(2) *Amount subject to recovery from the enrollee or representative.* The department shall recover from the enrollee or the enrollee's representative the amount of premiums incorrectly paid to a health plan on behalf of the enrollee due to client error, minus any premium payments made by the enrollee, in accordance with 441—Chapter 11.

a. Premiums incorrectly paid to a health plan on behalf of an enrollee due to an administrative error are not subject to recovery from the enrollee.

b. Payments made by a health plan to a provider of medical services are not subject to recovery from the enrollee regardless of the cause of the error.

86.19(3) *Notification.* The enrollee shall be promptly notified when it is determined that funds were incorrectly paid due to a client error. Notification shall include:

a. The name of the person for whom funds were incorrectly paid;

b. The period during which the funds were incorrectly paid;

c. The amount subject to recovery; and

d. The reason for the incorrect payment.

86.19(4) *Recovery.* Recovery shall be made from the enrollee or from the enrollee's representative (i.e., the parent, guardian, or other responsible person) when the representative completed the application and had responsibility for reporting changes. The enrollee or representative shall repay to the department the funds incorrectly expended on behalf of the enrollee. Recovery may come from income, income tax refunds, or lottery winnings of the enrollee or representative.

86.19(5) *Appeals.* The enrollee shall have the right to appeal a decision to recover benefits under the provisions of 441—Chapter 7.